

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re Terrorist Attacks on September 11, 2001	03 MDL 1570 (GBD) (SN) ECF Case
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This document relates to:

Ashton et al. v. al Qaeda Islamic Army, et al., 02-cv-6977 (GBD) (SN)

Bauer et al. v. al Qaeda Islamic Army, et al., 02-cv-7236 (GBD) (SN)

Burlingame v. Bin Laden, et al., 02-cv-7230 (GBD) (SN)

Schneider et al. v. Islamic Republic of Iran, 02-cv-7209 (GBD) (SN)

**[PROPOSED] ORDER GRANTING
EX PARTE EMERGENCY MOTION FOR ORDER OF ATTACHMENT**

This matter is before the Court on Movants' *Ex Parte* Emergency Motion for Order of Attachment. Upon consideration of the motion, all of the papers submitted, and the relevant authorities, the Court makes the following findings:

WHEREAS, because of the delay that will be caused by serving Defendant the Taliban a/k/a Islamic Emirate of Afghanistan ("Defendant"), an insurgent and volatile regime, and Movants' need for prompt adjudication of this motion, given the risk of asset dissipation, Movants have "good and sufficient reasons" for proceeding *ex parte* under Local Civil Rule 6.1 and New York Civil Practice Law and Rules § 6211.

WHEREAS, Movants have demonstrated that they are entitled to an order of attachment under Federal Rule of Civil Procedure 64(a) and New York Civil Practice Law and Rules §§ 6201, 6211, and 6212 because (1) they have "a cause of action," (2) "it is probable that [they] will succeed on the merits," (3) "one or more grounds for attachment provided in section 6201 exist," and (4) "the amount demanded from the defendant exceeds all counterclaims known to the plaintiff[s]." N.Y. CPLR § 6212(a).

IT IS HEREBY ORDERED THAT Movants' *Ex Parte* Emergency Motion for Order of Attachment in the full amount of the approximately \$3.5 billion in blocked assets held in the name of Da Afghanistan Bank at the Federal Reserve Bank of New York, is GRANTED.

IT IS FURTHER ORDERED THAT the United States Marshal of the Southern District of New York, or any person appointed to act in his place and stead, shall levy, at any time before final judgment, upon service of this Order of Attachment, but refrain from taking into actual custody, the full amount of the approximately \$3.5 billion in blocked assets held in the name of Da Afghanistan Bank at the Federal Reserve Bank of New York (which is exceeded by the compensatory damages Movants could recover upon final judgment).

IT IS FURTHER ORDERED THAT Movants shall post an undertaking in the amount of \$_____ within ____ days of this Order of Attachment.

IT IS FURTHER ORDERED THAT within five calendar days of the receipt of the levy of this Order of Attachment, garnissees shall provide a garnishee's statement filed with this Court (under seal) and served on Movants' counsel—Andrew J. Maloney, Kreindler & Kreindler LLP, 485 Lexington Ave., 28th Floor, New York, New York 10017—complying with and addressing all matters specified in N.Y. CPLR § 6219. Garnissees are directed to acknowledge in writing to the U.S. Marshal, also served on counsel for Movants at the above-mentioned address, that the assets attached herein will be held on behalf of the U.S. Marshal such that garnissees, their agents, subdivisions, servants, officers, employees, and attorneys, and all persons in possession of the property and/or debts described above, and all persons acting in concert or participation with the foregoing, and all persons receiving actual notice of this Order of Attachment, will refrain from directly or indirectly transferring, or ordering, directing, or requesting or assisting in the transfer, or in any other way affecting the value of, any such property or debt.

IT IS FURTHER ORDERED THAT within 10 calendar days after the levy of this Order, Movants shall move for an order confirming this Order of Attachment. Movants shall serve its motion for confirmation of this Order of Attachment on Defendant and each garnishee.

Furthermore, the Court respectfully directs the Clerk of the Court to terminate the motion at ECF No. 8412.

SO ORDERED.

DATED: _____

Hon. _____
United States District Court for the
Southern District of New York